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EXAMINER

HOEL, MATTHEW D

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/659,093	Applicant(s) GILLILAND ET AL.	
	Examiner Matthew D. Hoel	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☒ Claim(s) 44-51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2-3-05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).
2. Misnumbered Claims 44 to 50 have been renumbered as follows: the first Claim 44 as 44, the second Claim 44 as 45, 45 as 46, 46 as 47, 47 as 48, 48 as 49, 49 as 50, and 50 as 51. This new numbering is followed in the 102 and 103 rejections below.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:
5. The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 36 states: "The gaming device of Claim 1, which includes a log of outcomes of primary games played symbols of the interfaces." It is believed that the applicants meant to say that a log of outcomes was kept based on the symbols of the interfaces that were played.

Claim Rejections - 35 USC § 102

7. (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1 to 16, 19, 21 to 29, 33, 34, 39 to 46, and 49 to 51 are rejected under 35 U.S.C. 102(e) as being anticipated by Joshi (U.S. patent application publication 2002/0151349 A1, application 10/157,514).

9. As to Claim 1: Joshi teaches in '349 a display device (Fig. 1), and a primary game operable for a wager by a player (Abstract). '349 has a plurality of game display interfaces to display a primary game to a player (Figs. 1 and 12); each interface includes a plurality of different symbols; and the symbols in each interface perform an identical function in the primary game with respect to corresponding symbols in the other interfaces. Pluralities of the corresponding symbols in the interfaces are visually different from one another (Figs. 1 and 12). An event causes the device to switch from displaying one interface for the primary game to displaying another interface for the primary game (standard and holiday interfaces, Abstract).

10. As to Claims 2 and 49: '619 teaches one interface for a basic game (Para. 37, Fig. 2), and another interface for a bonus game (Para. 62, Fig. 10). The player of '619 can decide whether to accept or decline further bonus games (Para. 57). If a bonus game is declined the game leaves the bonus game interface and returns to the primary game interface. The game has selection buttons on screen 500 (Fig. 10) that allow a player to make game choices (Para. 62).

11. As to Claims 3, 39, and 50: The base game of '349 is a slot game including a plurality of reels, with symbols displayed on the reels (Fig. 1).
12. As to Claims 4, 40, and 51: In '349, at least two of the interfaces include at least one identical symbol (Figs. 1 and 12).
13. As to Claims 5 and 41: In '349, each symbol in one of the interfaces has a corresponding symbol in another one of the interfaces (Abstract; Figs. 1 and 12; corresponding elements, Para. 59).
14. As to Claims 6 and 42: In '349, the corresponding symbols are provided in the same frequency in two interfaces (Para. 5 and 6; Claims 70 and 80). The symbols of one motif are replaced one-to-one with the symbols of another motif, so it is inherent that the frequencies of the corresponding symbols remain the same.
15. As to Claims 7 and 43: In '349, each symbol in one of the interfaces has a corresponding symbol in each of the other interfaces (corresponding symbols in different interfaces, Para. 59, 61, and 65).
16. As to Claims 8 and 44: In '349, the corresponding symbols are provided in the same frequency in each of the interfaces (Para. 5 and 6; Claims 70 and 80). The symbols of one motif are replaced one-to-one with the symbols of another motif, so it is inherent that the frequencies of the corresponding symbols remain the same.
17. As to Claims 9 and 45: In '349, a plurality of symbols of one of the interfaces correspond to symbols in another one of the interfaces, wherein the corresponding symbols have different but related indicia (Para. 59; Professor, Butler, and Old Maid symbols slightly modified but similar; also Para. 61 and 65).

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18. As to Claims 10 and 46: In '349, a plurality of symbols of one of the interfaces correspond to symbols in another one of the interfaces, wherein the corresponding symbols have different and unrelated indicia (Para. 59; Shady Lawyer replaced by Santa Claus, Little Girl replaced by Elf; also Para. 61 and 65).

19. As to Claim 11: Each of the interfaces of '349 includes indicia consistent with a different game theme (Para. 63; Figs. 13 to 16).

20. As to Claim 12: One of the themes of '349 can be a sports theme (sports trivia questions, Para. 69 and 70).

21. As to Claim 13: In '349, a first interface display occurs before a second interface display, wherein the first interface display corresponds to a theme event happening before a theme event associated with the second interface display (will reading of Figs. 5 to 8 occurring before visit to suspect's hideout of Fig. 9).

22. As to Claim 14: The different interfaces of '349 allow the player to advance to the same bonus game (Figs. 1 and 12, different interfaces for primary game; Figs. 5 and 13 same bonus game, just different themes corresponding to primary games of Figs. 1 and 12, respectively).

23. As to Claim 15: In '349, the triggers for the bonus game in each of the interface have the same indicia (Para. 36 and 37; Figs. 3 and 12 have same detective and sidekick symbols).

24. As to Claim 16: In '349, each theme has its own set of symbols, so the trigger symbols could be replaced for different themes (Para. 6 and 7).

25. As to Claim 19: In '349, a random decision determines whether to change interfaces (bonus combinations occurring randomly in the primary slot game).

26. As to Claim 21: In '349, the random decision to change interfaces is based on a symbol display (Para. 37, combination of detective and sidekick symbols).

27. As to Claim 22: In '349, the random decision to change interfaces is weighted according to the amount wagered (Para. 11, wager inputs determine favorite interface, which is displayed more often).

28. As to Claim 23: In '349, the random decision to change interfaces is based on the outcome of the primary game (combination of detective and trigger symbols, Para. 36 and 37).

29. As to Claim 24: In '349, two of the interfaces have payouts yielding different expected values. On St. Patrick's Day, the gaming machine uses a holiday-themed interface and yields lower payouts, but more frequently (Para. 71).

30. As to Claim 25: In '349, different stages of a theme have different interfaces (Figs. 5 to 8, characters sitting at a table hearing will read; Fig. 9, visit to suspect's hideout later in game).

31. As to Claim 26: In '349, each of the stages is associated with a different interface (Figs. 5 to 8, characters sitting at a table hearing will read; Fig. 9, visit to suspect's hideout later in game).

32. As to Claim 27: In '349, each stage can be associated with a plurality of interfaces (Figs. 13 to 16, characters sitting at a table hearing will read, different interface depending on holiday theme).

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33. As to Claim 28: In '349, the interfaces of the bonus game is determined by the interface of the primary game, based on what holiday theme is being used for the current time of year (Para. 63, Figs. 12 and 13).

34. As to Claim 29: In '349, one of the interfaces associated with one of the stages is selected by the player (Para. 11, motif selected based on player's preference).

35. As to Claim 33: In '349, the number of plays is determined randomly, as the bonus combination occurs after a random number of plays (Para. 37).

36. As to Claim 34: In '349, the stages occur chronologically (characters hearing will read, Figs. 5 to 8; visit to suspect's hideout, Fig. 9).

Claim Rejections - 35 USC § 103

37. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

38. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

39. Claims 17, 18, 20, 30 to 32, 47, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joshi ('349) in view of Nicastro (U.S. patent application publication 2003/0027619 A1, application 10/202,924).

40. As to Claim 17: Joshi in '349 discloses all of the elements of Claim 17, but lacks specificity as to a bonus game having bonus triggers specific to the different interfaces. In '349 the bonus game (Figs. 13 to 16, same bonus game with different interface themes depending on time of year) has trigger indicia common to each of the interfaces

(Figs. 1 and 12, detective and sidekick trigger symbols common to different interfaces of the base game; Para. 36 and 37). Nicastro, however, in '619 teaches bonus triggers specific to the different interfaces. The bonus games of '619 have different trigger symbols specific to the interfaces of the primary games. Figs. 2 and 3 of '619 show a base game. A predetermined number of adjacent trigger symbols occurring along a payline determines a bonus game (Para. 40). In this case, the trigger symbol is the MC symbol (center row, Fig. 3). Three or more symbols triggers the bonus game of Figs. 4 to 6 (Para. 47). Fig. 8 shows another base game of '619; the trigger symbol is "The Big Cheese." Three or more adjacent trigger symbols on a payline start the bonus game of Fig. 10 (Para. 59). It would be obvious to one of ordinary skill in the art to apply the interface-specific bonus triggers of '619 to the game of '349. The primary game of '619 can be a slot machine (Fig. 2, Para. 37), like '349 (Fig. 1). Both games have bonus games that are started by combinations of trigger symbols ('349, Para. 36 and 37; '619, Para. 47 and 59). Both games have interfaces based on themes ('349, holiday interfaces, Figs. 13 to 16; '619, "Cat & Mouse," Fig. 8, and "Take It or Leave It," Figs. 2 and 3). In both games, the more active paylines the player has active in the primary game, the more the player can win in the bonus game ('349, Para. 52; '619, Para. 75). The advantage of this combination would be to stimulate the interest of the player by offering multiple bonus games on one machine, using different trigger symbol combinations to indicate the different bonus games.

41. As to Claim 18: The interfaces of '619 allow the player to advance to a bonus game specific to the interface (Figs. 2, 3, 5, 8, and 10; Para. 40 and 59).

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42. As to Claim 20: '619 has an input device that enables the player to override the random decision to change interfaces (Para. 32 and 71, player can decline additional bonus games).

43. As to Claim 30: In '619, the player can decline an additional bonus game (Abstract) by using the input device (Para. 62). The additional bonus game can be the same type of bonus game (Claims 14 to 17), so the additional bonus game would be another stage of the same theme.

44. As to Claims 31 and 32: In '619, the interface associated with a stage is played for a number of plays before a different stage and interface are used. In the bonus game, the number of Take Its and Leave Its (game plays) is based on a preset number based on the number of bets made in the primary game (Para. 56). The player plays the interface associated with the bonus game until the additional game is offered (Para. 32). The additional bonus game can be the different type of bonus game (Claims 14 to 17), so the additional bonus game would have a different stage and interface.

45. As to Claim 47: Joshi teaches in '349 a display device (Fig. 1), and a primary game operable for a wager by a player (Abstract). '349 has a plurality of game display interfaces to display a primary game to a player (Figs. 1 and 12); each interface includes a plurality of different symbols. The symbols in each interface perform an identical function in the primary game with respect to a paytable of the primary game (Abstract; Figs. 1, 4a, 4b, 12). Pluralities of symbols in each of the interfaces look visually different than the plurality of symbols in each of the other interfaces that perform the same function (Figs. 1, 12, 13 to 16). '619 has an input device that enables the

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player to interfaces (Para. 32 and 71, player can accept additional game, changing interface to that of the additional game). '349 changes the interface of the primary game, determining the player's favorite from the amount of coin-in (Para. 11).

46. As to Claim 48: Joshi teaches in '349 a display device (Fig. 1), and a primary game operable for a wager by a player (Abstract). '349 has a plurality of game display interfaces to display a primary game to a player (Figs. 1 and 12); each interface includes a plurality of different symbols. The symbols in each interface perform an identical function in the primary game with respect to corresponding symbols in the other interfaces, where each symbol has a corresponding symbol in each of the other interfaces (Abstract; Figs. 1, 12, 13 to 16; Para. 59, 61, and 65). A plurality of symbols in each interface looks visually different than the symbols in each of the other interfaces that perform the same function (Figs. 1, 12, 13 to 16). In '349, the corresponding symbols are provided in the same frequency in each of the interfaces (Para. 5 and 6; Claims 70 and 80). The symbols of one motif are replaced one-to-one with the symbols of another motif, so it is inherent that the frequencies of the corresponding symbols remain the same. An event causes the device to switch from displaying one interface for the primary game to displaying another interface for the primary game (standard and holiday interfaces, Abstract).

47. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Joshi ('349) and Nicastro ('619) in view of Joshi, et al. (U.S. patent application publication 2002/0090990 A1, application 10/093,673).

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48. As to Claim 35: The combination of Joshi ('349) and Nicaastro ('619) discloses all of the elements of Claim 35, but lacks specificity as to different audios being associated with different interfaces. Joshi, however, in '990 teaches different audios associated with two of the interfaces ("Why would I steal any of these precious items when this is Christmas," "It seems spooky in here (at Halloween)," Para. 69). It would be obvious to one of ordinary skill in the art to apply the different audios of '990 to the combination of '349 and '619. Both games are slot machines based on the "Who Dunnit?" game ('349, Fig. 1; '990, Fig. 1). '349 teaches certain audios being played more often based on how much players wager while the audios are being played (Para. 72). In light of the fact that '349 also teaches certain themes being more often based on how much players wager while the themes are displayed (Para. 11), it would be a logical extension to associate favorite audios with favorite themes, similar to '990. The advantage of this combination would be to maximize the amount wagered by showing the themes and playing the audios the players like to hear most.

49. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Joshi ('349), Nicaastro ('619), and Joshi ('990) in view of Schneier, et al. (U.S. patent 5,970,143 A).

50. As to Claim 36: The combination of Joshi ('349), Nicaastro ('619), and Joshi ('990) discloses all of the elements of Claim 36, but lack specificity as to keeping a log of outcomes of the primary games. Schneier, however, in '143 teaches keeping a log of outcomes of primary games to determine the high scores of tournament games

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(tournament database, Fig. 5; Col. 22, Line 66 to Col. 23, Line 60). It would be obvious to one of ordinary skill in the art to apply the game result log of '143 to the combination of '349, '619, and '990. The score-keeping system is designed to be used with groups of video games networked together (Fig. 1A; Col. 10, Lines 10 to 48); in particular, '143 can be used with slot machines (Col. 44, Lines 33 to 38), like the games of '349, '619, and '990. '349 (Fig. 17) has a floor controller with multiple slot machines connected to it by a network so it can determine the favorite interfaces base on a log of the coin-in at each machine (Para. 72). The software of '619 can be updated over a network (Para. 36). It is inherent that the networked gaming machines would be capable of tournament play using the results log of '143. The advantage of this combination would be to heighten players' interest in the game by providing a tournament capability and allowing them to see the high scores on other machines in the casino.

51. Claims 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joshi ('349), Nicastro ('619), Schneier ('143) and Joshi ('990) in view of Morrow (U.S. patent application publication 2003/0064771 A1, application 09/967,283).

52. As to Claim 37: The combination of Joshi ('349), Nicastro ('619), Schneier ('143), and Joshi ('990) discloses all of the elements of Claim 37, but lacks specificity as to the menu allowing the player to change interfaces. Joshi in '349 teaches a plurality of game interfaces (Figs. 13 to 16). Each array includes a plurality of different symbols (Figs. 1 and 12). The symbols in the primary game perform an identical function in the primary game with respect to the corresponding symbols in the other interfaces (Figs. 13 to 16;

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Abstract). Pluralities of the corresponding symbols in the interfaces are visually different from one another (Figs. 13 to 16; Para. 59, 61, and 65). An event causes the device to switch from displaying one interface for the primary game to displaying another interface for the primary game (holiday motifs, Para. 63). '349 teaches a menu that displays the symbols of an interface to the player (Para. 43, 44, 59, and 75). Morrow, however, in '771 teaches a menu allowing a player to pick a game from a menu of titles (Para. 27). The different games of '771 have different paytables and graphics (Figs. 1 and 2, Para. 24 and 26), so using the menu to select a different game title would involve changing interfaces. It would be obvious to one of ordinary skill in the art to apply the game selection menu of '771 to the combination of '349, '619, '143, and '990. The game of '771 can be a video slot machine (Para. 46), like the games of '349, '619, and '990. '771 can have multiple paytables and interfaces (Para. 26), like '349 (Figs. 13 to 16, Para. 71). '771 can be configured to offer multiple types of games (Figs. 1 and 2, Para. 24), like '619 (Figs. 2 and 3, Para. 37 and 53). The advantage of this combination would be to stimulate interest in the game by giving the player control over what interface will be displayed, as opposed to determining the favorite interface by the amount of coin-in like '349.

53. As to Claim 38: In '771, the player can select a game from a menu, which would involve switching from a game with one interface to another game with another interface (Para. 27).

Citation of Pertinent Prior Art

54. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jaffe in U.S. patent 6,358,147 B1 teaches a gaming machine with multiple presentation schemes. In U.S. patent application publication 2001/0024971 A1 Brossard teaches audio-visual output for a gaming device. In U.S. patent 6,604,740 B1 Singer, et al. teach a slot machine having a plurality of ways to designate symbols. In U.S. patent 6,609,972 B2 Seelig, et al. teach player-selectable display devices. In U.S. patent 6,592,457 B1 Frohm, et al. teach player-selected events. In U.S. patent 6,302,791 B1 Frohm et al. teach a high-volatility index. In U.S. patent application publication 2002/0025844 A1 Casey, et al. teach a selection feature for a game of chance. In U.S. patent application publication 2003/0144052 A1 Walker, et al. teach user-selected elements.

Conclusion

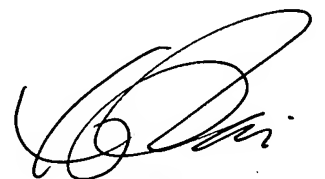
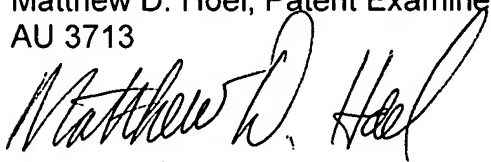
55. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571) 272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M..

56. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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57. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matthew D. Hoel, Patent Examiner
AU 3713



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SUPERVISORY PATENT EXAMINER
TC3700